

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

TOM GORMAN, an individual,
Plaintiff,

No. 3:11-cv-00413-HU

v.

OPINION AND ORDER

ROCKY POINTE MARINA PORTLAND,
LLC, an Oregon limited liability
company, and A&D YACHT SERVICE,
LLC, an Oregon limited liability
company,
Defendant.

ROCKY POINTE MARINA PORTLAND,
LLC, an Oregon limited liability
company,
Third-Party Plaintiff,

v.

ANDREW BROWN, an individual,
Third-Party Defendant.

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5 Of Attorney for Defendant A&D Yacht Service, LLC &
6 Third-Party Defendant Andrew Brown

7 HUBEL, Magistrate Judge:

8 ***OPINION AND ORDER***

9 This admiralty case involves a dispute between a shipowner,
10 Tom Gorman ("Gorman"), and two shipyards, Rocky Pointe Marina
11 Portland, LLC ("RPM") and A&D Yacht Service, LLC ("A&D"), over
12 repairs to a vessel. Because the parties disagree as to the exact
13 nature of the business relationship between RPM, A&D, and third-
14 party defendant Andrew Brown ("Brown"), RPM issued a subpoena to
15 Scappoose Business and Tax Services, Inc. ("SBTS"), requesting tax
16 returns and accounting information for Brown and A&D. The subpoena
17 was objected to on the grounds that public policy disfavors
18 disclosure of such information. RPM also sent Brown's counsel a
19 proposed subpoena for Brown's medical records because, during his
20 deposition, Brown alluded to the fact that he suffered a mental
21 breakdown as a result of his relationship with RPM. In response,
22 Brown's counsel told RPM that Brown's medical records were (1)
23 protected by the physician-patient privilege; and (2) not relevant
24 to the causes of action alleged and defenses raised.

25 RPM now moves the Court for two orders: (1) an order
26 compelling SBTS to comply with its subpoena duces tecum; and (2) an
27 order permitting RPM to subpoena Brown's medical records from
28 Kaiser Permanente. Plaintiff orally joined in the motion with

1 respect to Brown's medical records at the hearing. For the reasons
2 stated on the record at the time of oral argument, all of which are
3 incorporated herein by reference, RPM's motion (Docket No. 60) to
4 compel is GRANTED with respect A&D's and Brown's tax records. In
5 particular, A&D and Brown must produce: "All income tax returns for
6 [A&D and Brown], including but not limited to all supporting or
7 affiliated schedules, in particular Schedule B, Schedule D, and
8 Schedule E, all supporting documents regarding any income source,
9 including but not limited to K-1s, 1099s, 1099-DIV, 1099-MISC, W-
10 2s, and all profit and loss statements and distributions for [A&D
11 and Brown] for the years 2006-2010." (McCurdy Decl. (Docket No. 70)
12 Ex. 2 at 4.) This information shall be provided to RPM subject to
13 an agreed upon protective order.

14 With respect to Brown's medical records, the Court will issue
15 its ruling on the record during the oral argument scheduled for
16 September 10, 2012. Prior to that date, Gorman and RPM are
17 directed to submit supplemental briefs by August 15, 2012, setting
18 forth (1) their precise intent regarding claims, defenses or issues
19 which put Brown's medical condition(s) at issue in this proceeding;
20 and (2) the particular medical records of Brown that are necessary
21 to support or defend any party's position on such issues. Brown's
22 response, which should also address the aforementioned matters, is
23 due by September 4, 2012.

24 IT IS SO ORDERED.

25 Dated this 10th day of August, 2012.

26 /s/ Dennis J. Hubel

27 _____
DENNIS J. HUBEL
28 United States Magistrate Judge